

Appl. No. 09/701,622
Amendment dated April 14, 2004
Reply to Office Action of February 23, 2004

REMARKS

In view of both the amendments under 37 CFR §1.116(b) presented above and the following discussion, the Applicants submit that none of the claims now pending in the above-identified application is rejectable as obvious to one having ordinary skill in the art under the provisions of 35 USC §103(a). Furthermore, Applicants also submit that all of the said pending claims now satisfy the requirements of 37 CFR §1.75(c) and 37 CFR §1.121(a)(6). Thus, Applicants believe that all of said pending claims are now in allowable form; and that the above-identified application is in condition for allowance.

If, however, the Examiner believes that there are any unresolved issues requiring adverse action (that is, non-allowability of any of the said pending claims) the Examiner is respectfully requested to contact Arthur L. Liberman at either of the telephone numbers: 732-291-9434 or 732-530-6671 or the FAX number: 732-872-1305 or via E-mail at aliberman@monmouth.com so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Status of pending claims; and relationship thereof to previously-presented claims

Previously-presented claims 67, 69, 70, 79, 80, 86, 101-111 and 113-115, indicated in \$5 on page 1 of the

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Office Action of February 26, 2004 as allowable have been retained in the case without change.

Previously-presented claims 93, 94 and 96 objected to in paragraph 9 on page 3 of the Office Action of February 26, 2004 as being dependent on a rejected claim have been currently amended to each be an independent claim. Each of claims 93, 94 and 96 now contains the limitations of claim 87.

Previously-presented rejected claims 87, 89-92, 95 and 98 have been cancelled without prejudice.

Previously-presented claims 97 and 112, which were objected to under 37 CFR §1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim have been amended in order to overcome the 37 CFR §1.75(c) objection, and are each (i) expressly limited to the subject matter of previously-presented and now cancelled claim 87 (in the case of claim currently-amended claim 97) or to the subject matter of previously-presented currently pending claim 102 (in the case of currently-amended claim 112) and (ii) limited to the claimed polyurethane having phase separated morphology wherein the soft segments consist of polyester components (and not polyether components).

Claim Objections

In paragraph 9 on page 3 of the Office Action of February 26, 2004, previously-presented composition-of-matter claims 93, 94 and 96 were objected to as being dependent on a rejected claim (that is, previously-presented claim 87). The said claims 93, 94 and 96 have now each been amended to be an independent claim, containing the language of previously-presented (and now cancelled) claim 87. Accordingly, it is respectfully submitted that the objection to claims 93, 94 and 96 have been overcome and that claims 93, 94 and 96 are allowable.

In paragraph 1 on page 2 of the Office Action of February 26, 2004, claims 97 and 112 were objected to as failing to comply with the requirements of 37 CFR §1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. In supporting this objection, the Examiner in charge of the above-identified application stated:

"Claims 97 and 112 are broader in scope than claims 87 and 102 which read on only polyester soft segments. The word "block" is misspelled in claim 112"

Claims 97 and 112 have been amended whereby (i) claim 97 is an independent claim, containing the limitations of claim 87 (which has been cancelled) and claim 112 is now an independent claim containing the limitations of allowed claim 102, (ii) neither claim 97 nor claim 112 includes in the 'soft segment' grouping, "polyether" components, but

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only "polyester" components and (iii) the spelling error in claim 112 has been corrected(---block-length--- has replaced "bock-length"). Accordingly, it is respectfully urged that the objections to claims 97 and 112 based on 37 CFR §1.75(c) have been obviated.

Rejections

Rejection under 35 USC §103(a)

In paragraphs 3-7 bridging pages 2 and 3 of the Office Action of February 26, 2004, previously-presented claims 87, 89-92, 95 and 98 were FINALLY rejected under 35 USC §103(a) as being unpatentable over de Groot et al (New biomedical polyurethane ureas with high tear strengths) (hereinafter referred to as "de Groot- (New biomedical...)") in view of Cohn et al (U.S. Patent 5,100,992).

Claims 87, 89-92, 95 and 98 have been cancelled without prejudice to the filing of one or more continuation and/or continuation-in-part applications thereby obviating the rejection.

The Newly-Presented Amendments do not contain "New Matter"

None of the newly-presented amendments contain subject matter which can be considered as rejectable based on new matter under 35 USC §132(a) or 37 CFR §1.121(a)(6).

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Basis for each amendment exists in the specification as originally filed (PCT/NL99/00352).

Conclusion

Thus, Applicants respectfully submit that none of the pending claims presently in the application is obvious to one having ordinary skill in the art under 35 USC §103(a). Furthermore Applicants respectfully submit that each of the said pending claims now fully satisfies the requirements 37 CFR §1.75(c) and 37 CFR §1.121(a)(6).


In summary, Applicants believe that each of the pending claims as set forth herein is presently in condition for allowance. Applicants respectfully request that the instant amendment under 37 CFR §1.116(b) be entered since it either:

- (a) Places this case in condition for allowance; or
- (b) Places this case in better condition for appeal.

An advisory action responding to this 37 CFR §1.116(a) amendment is, accordingly, respectfully solicited.

Respectfully submitted,
MICHAELSON & ASSOCIATES

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CERTIFICATE OF MAILING under 37 C.F.R. 1.8(a)

I hereby certify that this correspondence is being deposited on **April 15, 2004** with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to the Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


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(plamd/ksb/130)